THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.7827 of 2005

Dated:08.08.2007

Between
Nukala Krishna

.....Petitioner

and

1.Transmission Corporation of AP
Ltd., (AP Transco) rep., by its
Chief Managing Director,
Vidyut Soudha, Khairatabad
Hyderabad and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.7827 of 2005

ORDER:

This writ petition has been filed seeking a Mandamus to declare the order of 2nd respondent vide proceedings No.SE/A/TPT/RAO/D.MTM/5(A)/03-04/VJA D.No.380/04 dated 27.5.2004 confirming the order of 3rd respondent vide proceedings No. DE/O/VJA/A/VJA/D.O.C.No.MSM 493/D.No.5626, dated 30.08.2003 as arbitrary and illegal and contrary to Section 49-C of the Indian Electricity (AP Amendment) Act, 2000 and consequently to direct the respondents to transfer the matter to the Special Tribunal constituted under the provisions of the Indian Electricity Act, 2003.

It appears that the petitioner is an agriculturist

and he has electricity service connection bearing No.278 in category V, Jinjeru Village, Machilipatnam Mandal, Krishna District. According to the respondents, the petitioner used the said service connection for prawn culture. Hence, he has committed malpractice of energy. In the provisional assessment, the energy said to have been misused by the petitioner was estimated at Rs.20,766/-. Thereafter, 3rd respondent passed the final order stating that it is a case of malpractice of energy from 9.11.2001 to 9.5.2002. Aggrieved by the same, the petitioner filed an appeal before the 2nd respondent. The 2nd respondent confirmed the order passed by 3rd respondent stating that the petitioner has committed malpractice of energy and therefore, liable to compensate the loss sustained by the Corporation.

Learned counsel for the petitioner states that since it is the case of the respondents that the petitioner has committed pilferage of energy, they

are supposed to refer the matter to the Special Court constituted under Section 153 of the Electricity Act, 2003 for the purpose of resolving the dispute of this nature, whereas learned counsel for the respondents strenuously contended that it is only malpractice attributed against the petitioner and not pilferage. Therefore, the question of referring the matter to the Special Court, which is constituted under Section 153 of the Electricity Act, 2003 does not arise.

I have looked into the final assessment order as well as the order of the appellate authority, wherein, it has been categorically held that it is a case of malpractice of energy from 9.11.2001 to 9.5.2002. May be, the petitioner has an agricultural service connection, but it is used for other commercial purposes such as prawn culture etc. It is nothing but diverting the energy to other than the purpose for which service connection is meant for. Therefore, it amounts to pilferage of energy.

Under those circumstances, I deem it

appropriate to direct the respondents to refer the matter to the Special Court which is constituted under Section 153 of the Electricity Act, 2003.

Writ petition is disposed of accordingly. No costs.

_____

08-08-2007

rkk